

Florence, New Jersey 08518-2323
July 9, 2018

A regular meeting of the Florence Township Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Zekas called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Secretary Lutz then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Upon roll call the following members were found to be present:

Brett Buddenbaum	Anthony Drangula
Larry Lutz	B. Michael Zekas
Margo Mattis	Dennis Puccio

Absent: Joseph Cartier, Anant Patel, Lou Sovak

Also Present: Solicitor David Frank, Engineer Hugh Dougherty, Planner Barbara Fegley

APPLICATIONS

Chairman Zekas said there were two applications and he would like to take the second application on the agenda first.

A. Application ZB#2018-02 submitted by Parth Patel, 304 Seyebe Lane, Florence, for a rear yard setback to construct an addition to an existing rear deck for property located at 304 Seyebe Lane, Florence. Block 165.09, Lot 3.

At this time Chairman Zekas called for the contractor representing the applicant. Christopher Wiggins of CJ & Son Remodeling, LLC was sworn in by Solicitor Frank. Chairman Zekas asked for an overview of what was being proposed and why a variance was required. Mr. Wiggins explained the applicant would like to be able to have patio furniture on the deck and there isn't enough room. It will also enhance the property. Chairman Zekas asked if there was a wooden deck on the back of the home currently. Mr. Wiggins said right now there is a 12' X 10' deck. Chairman Zekas asked if it was being extended both to the rear and to one side. Mr. Wiggins said the proposal is to expand to the side of the house to make it even with the house. Building to the rear makes the setback necessary. Chairman Zekas confirmed it would be a 6' encroachment into the rear yard setback. Mr. Wiggins said building the deck to meet the side of the house is permitted. Chairman Zekas said it was indicated in the application that the current deck was made of wood and it would be redone with a Trex-type material. Mr. Wiggins said that was correct. Chairman Zekas asked if the elevation would remain the same. Mr. Wiggins said it would be. He noted there would be steps coming from the deck. There are currently steps and they will come down the right side. It won't interfere with the setback. Chairman Zekas asked Mr. Wiggins if he would be doing all of the work. Mr. Wiggins said he is.

Chairman Zekas asked if other homes in the area had similar decks. Mr. Wiggins said there are other decks in the area. He said the applicant would like more room on the deck to be able to have patio furniture and extra space. Solicitor Frank said he wanted to note that Mr. Wiggins was acting as a fact witness, he is not appearing as an advocate for the applicant. He is only testifying to the facts of the case.

Engineer Dougherty said he prepared a letter dated July 5, 2018. He said the applicant did submit a checklist and it was completed. The application can be deemed complete and heard this evening. The applicant's representative stated it is a bulk variance required for the fifty-foot rear yard setback. The application indicates the proposed deck will have a setback of forty-four feet where fifty is required. He visited the site and he noticed in the rear there is no adjacent property owner. There is a detention basin. Across the pond is another home. The rear of the lot has a large detention basin and a little bike way around it. It is also heavily landscaped. Those features would shield a deck or an encroachment into that area from the adjacent neighbors. There was testimony that neighbors have similar improvements such as pools. There is one property that has a fence with a pool. It goes all the way to the back of the property and it obscures the view from that side. He said it does appear that other properties have decks that are at least as far as what the applicant is asking for. He asked if the area surrounding the deck would be mowed lawn. Mr. Wiggins said that was the case, and it is staying that way. Engineer Dougherty asked if there would be issues with drainage. Mr. Wiggins said there would not be any problems with drainage.

It was the Motion of Buddenbaum, seconded by Lutz to open the meeting to the public regarding Application ZB#2018-02. Motion unanimously approved by all those present. Seeing no one wishing to be heard, it was the Motion of Lutz, seconded by Buddenbaum to close the public hearing. Motion unanimously approved by all those present.

Chairman Zekas said this application is for a rear yard setback variance request. The engineer indicated there are similar decks in the area. The deck would have little or no impact to any neighboring properties. There is already buffering with the detention basin and landscaping.

Solicitor Frank said the application could be approached as a C-1 or C-2. There are constraints to building a deck because of the existing location of the dwelling. As a C-2 there are benefits and it is a common amenity in the neighborhood. The benefits would outweigh the non-existing detriments.

It was the Motion of Mattis, seconded by Puccio to approve Application ZB#2018-02.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Drangula, Lutz, Zekas, Mattis, Puccio

NOES: None

ABSENT: Cartier, Patel, Sovak

B. Application ZB#2018-01 submitted by Jeffrey Dzurko, 8 Hoffner Court, Roebling, NJ for Minor Subdivision and Use Variance approval for property located at 1021 Potts Mill Road, Florence Township. Block 166, Lot 12.03.

Chairman Zekas called for the next application. John Gillespie, of Parker McCay introduced himself on behalf of the applicant. He explained the applicant was seeking permission to do a couple of things on property at 1021 Potts Mill Road. He said he had two witnesses this evening, Mr. Dzurko and Mark Malinowski of Stout & Caldwell Engineers. Both were sworn in by Solicitor Frank. Mr. Malinowski was accepted as a professional witness.

Mr. Gillespie said the lot in question was typical for what is seen on Potts Mill Road. There are many "bowling alley" lots in that area. It is a long lot that goes back to Craft's Creek. The zoning minimum for the site is one acre. This lot is almost four times the size of the minimum. There is an existing house on the front of the property. He indicated the lot would be subdivided with the existing house on one lot and the second lot would be a flag lot that would go all the way back. He indicated the wetlands line and flood hazard line on the aerial view of the property. It was entered into evidence as A-1. He said the plan was to subdivide the property and leave the house as-is. The house is not owner-occupied, it is currently rented. He said Mr. Dzurko lives about a half mile from the property. He saw the property about a year ago, and he would like to retire in Florence. He has a lot of "toys" and he needs room for them. In the event that the Board even considers this, he knows there would be a condition that the garage would not be used for a business and Mr. Dzurko will testify to that. The garage would be for his motor home, boat and cars. This application is being proposed in reverse order. Normally a garage would be an accessory to the principal use of a house. The applicant is looking to keep the house and tenant to remain on the front lot. He would then like to build the garage first on the new lot, which would make the garage a principal use of the property with the house being built somewhere down the road when he is ready to retire.

Mr. Gillespie stated that the original proposal and application that was submitted called for an eight thousand square foot garage. The professional staff was very clear that would be too large. There are other pole barns/garages that were constructed in the area that are comparable to what is now being proposed. Over the past number of years, Potts Mill Road has been the subject of a fair amount of development process applications. There are subdivision and other flag lots as well as garages and pole barns in that area. The applicant this evening is seeking permission to subdivide the lot and allow the construction of a twenty-four hundred square foot garage as a principal use. If it is the principal use, there is no need for a height variance. If it was accessory use there would need to be a variance.

Mr. Gillespie asked Mr. Dzurko if he had explained everything correctly to the Board in terms of what he would like to do with the property. Mr. Dzurko said it was accurate. Mr. Gillespie asked him to tell the Board in his own words what he has planned and what he currently does for a living. Mr. Dzurko said he lives on Hoffner Court and has lived there for twenty-two years and would like to retire at some point. He has a business in Philadelphia which does power systems, electrical testing and diagnostics. He would like to retire while he still has time to enjoy his "toys." He has a twenty-five-foot boat with a top and he would like to get a travel trailer to do some travelling. He has a garage presently that is thirty feet by forty feet which is filled with cars. He wants to build a bigger garage to put the cars in along with a motor home and his boat.

Mr. Gillespie asked if the cars were personal vehicles not related to his business. Mr. Dzurko confirmed this. Mr. Gillespie asked if he would agree to the condition that the garage would not be used for commercial use or to store equipment from his business. Mr. Dzurko said he

would agree to that. Mr. Gillespie asked what drew him to this property. Mr. Dzurko said he was riding down Potts Mill Road and saw the property was for sale. He looked at the property and saw it was very nice in the back. There is a wooded area and a drop in the back to a stream. It is not a heavily travelled road and he likes the rural setting of the area. Mr. Gillespie asked if he was familiar with some of the properties in the area. Mr. Dzurko said he was. He has lived in the area for twenty-two years and has travelled the road many times. Mr. Gillespie asked if the application was approved, would it be generally consistent with what is in the area. Mr. Dzurko said it would be. There are other pole barns and garages on properties in the Potts Mill Road area. They are very similar to what he is proposing.

Mr. Gillespie asked why there was such a decrease in the size of the building from what was originally proposed. Mr. Dzurko said the professionals' comments led him to believe the larger size would not be approved. He wanted to put his things in the garage and have room to move things around. He has garages on Norman Avenue and he plans to keep them and store some vehicles there and have this new garage for the larger items. Mr. Gillespie said the applicant has indicated he would like to build a home in the area behind the garage. Mr. Dzurko said that is true. Mr. Gillespie said Florence Township has a regulation that the accessory building must be behind the principal building or the same depth as the primary structure. He asked Mr. Dzurko if he would agree to come back for the approval for the house. Mr. Dzurko said he would.

Mr. Gillespie said in terms of the neighborhood, if this were approved, is there any reason the approval would be a detriment to the area. Mr. Dzurko said it would not be. Mr. Gillespie asked him to talk more in-depth about the garage. Mr. Dzurko said he does not plan to light the roadway, just the basic garage lighting. He would probably have a sensor light. As far as traffic in and out of the garage, once it is built he will probably be there maybe once a week. He said it will be for personal use only.

Mr. Gillespie asked Mr. Malinowski to discuss the white markings on the aerial view. Mr. Maloniwski said it is a color aerial with the site superimposed on it. It shows the original site and the subdivided portion around the existing dwelling. It also shows the drive coming off Potts Mill Road leading up to the proposed garage. The garage is 2,400 sq. ft. and 40' x 60' in dimension. The white lines in the rear represent a flood elevation of 23 feet. The area between the flood elevation and the garage is 304 feet. It is a substantial amount of distance.

Mr. Malinowski stated the other line to the right is a wetland line. It came from two different sources. The first was the NJDEP Geo-web. It is basically a drainage corridor that runs through the back of the property. It is a tributary to Craft's Creek. There is a substantial grading difference. There is about seven feet between the two lines and the top bank. He requested a waiver for any type of DEP applications because in this instance the proposed site is so far away from the environmental areas. There are buffers associated with the riparian line and the wetlands line. The worst-case scenario is a 150-foot buffer. That is established when there are exceptional wetland areas where threatened endangered species have been spotted within the area. The site would still be well further than that from any potential buffer area.

Solicitor Frank asked in regards to construction of the home to the rear of the garage if any associated septic for the home would be outside of that buffer zone. Mr. Malinowski said it

would all be outside of that buffer. If for some reason they needed to go within the buffer, they would have to get the proper permits. At this point the intent is stay outside of the buffer zone.

Member Buddenbaum asked if there were going to be lifts installed in the garage. He was told there would not be. Member Buddenbaum asked about the height of the garage and if it was going to be taller than the house that is already there. Chairman Zekas said it would be taller because the existing house is a single story. He was concerned how it will look from the street. Mr. Malinowski said because of the setback it will probably be a two-hundred-foot difference between the existing dwelling and the garage. The distance will reduce that perspective.

Mr. Malinowski said the applicant is also asking for a deviation from the 125-foot lot frontage requirement. The lot width at the street line is just under 200 feet and then it narrows to about 130 feet at the rear. It has a long narrow shape. To make one lot comply, it is set at 125 feet. Subsequently the difference between the two establishes the flagpole portion of the flag lot. It is a little more than 74 feet at the street. The narrowness should not have an impact on the street scape. There won't be a structure there; it will just be a driveway. There won't be an impact from a visual perspective. Mr. Gillespie asked if there are other properties in that area that do not meet the frontage requirement. Mr. Malinowski said there are many lots in that area. He said he reviewed the tax maps and saw that there were many.

Mr. Gillespie suggested reviewing the professionals' letters. He asked for the Board to take notice of other resolutions where variances were granted. In January, the Planning Board granted approval for a property on Potts Mill Road for a 60-foot flag lot. In 2010 this Zoning Board granted a use variance for a 3,200 sq. ft. pole barn associated with a landscaping business that also required a use variance. He wanted to get this information on the record. It provides the Board with a background of how Potts Mill Road has developed through a number of variances and this request is really not unusual and is consistent with what is going on in that area.

Engineer Dougherty said he prepared a series of reports for this application. He referred to his letter dated March 23, 2018. There were some revisions to the plan. That letter dealt with the eight thousand square foot garage. His second letter of April 30, 2018 was based on a second submission. There was a minor revision on May 3, 2018. The most recent application that is being discussed this evening was discussed in his letter of June 25, 2018. Unlike the previous application, which was a bulk variance, this application has a larger checklist. With the subdivision, use variance and bulk variance checklist there are some items that are required for the submission that the applicant did not supply. One was an Environmental Impact Statement. The applicant is seeking a waiver for this item. Engineer Dougherty said he didn't know what was going to be stored in the garage so he was concerned about fumes, noise, fluids; that type of thing. The testimony provided this evening addressed his concerns and he would have no problem with the Board granting a waiver for the Environmental Impact Statement. Another part of the checklist for completeness was the utilities and drainage on the property. He understands the rental property that is going to be subdivided is going to be public water and sewer. The proposed lot would also be public utilities. Engineer Dougherty suggested that since the applicant would be hooking up at a later date he should have to show the proposed sewer line as a condition of approval. The plan would be revised to show the

connections. That item would be complete if it was a condition of approval. With regard to the flood hazard area, the plans indicate a portion of the property is in the flood plain. It is not a true delineation; it is an estimated flood plain area. Because the garage is about three hundred feet from that area, he felt that was an appropriate reason for a waiver. If the Board approves these waivers, the application could move forward and be deemed complete.

With regard to the actual application, the property will have public sewer and water. That actually goes to the lot size. If it was going to be a septic system, the lot would have to be much bigger. Because it will be public water and sewer, the smaller lot is an appropriate size with regard to area and lot width. The variance is triggered because of the narrow driveway that fronts the road. The garage is being built first so that becomes a principal use so therefore the height variance disappears. His only other question was in regard to testimony for the use of the garage. This was provided and it would be for personal use. He believes that should be a condition of approval. He was concerned about lighting for a garage this large might have a slop sink or something of that nature. He asked if there was going to be any floor drains, sinks or bathrooms. Mr. Dzurko said he would not be installing anything like that.

Engineer Dougherty said there were some provisions under Land Use Development because this is a subdivision. Solicitor Frank said in regard to that, he could see in the future if the applicant were to move there he might want to have some of those facilities in the garage. It would be difficult to get a permit for subgrade plumbing for a future proposed bathroom. Mr. Dzurko said that would be something that could possibly happen down the road but not at this point. Mr. Gillespie suggested that could be part of the plans that would be submitted for the construction permits. Solicitor Frank said that would be up to the Board if that was something they wanted to include. He said when these sorts of things are allowed in the subgrade it opens a can of worms and could be potentially susceptible to future abuse. He wants to help the applicant but also wants the Board to see the potential for abuse. Mr. Malinowski said he doesn't believe the applicant would need to install dry lines at this point. Possibly in the future it could be done and through the Construction Office. Chairman Zekas said he wasn't sure it would be up to the Board as much as it would be something for the Construction Code Official. Solicitor Frank said it could be applied as a condition to facilitate future installation contingent upon sewer being installed. It could be imposed now for future installation. If it is done, it would need to be done right and written strongly in the resolution. Mr. Gillespie said the applicant appreciates the suggestion and he would agree to it.

Member Drangula said it was his impression that originally the house and garage were going to be built at the same time. He asked if that was the case. Mr. Dzurko said he had not intended to build both at the same time. The previously submitted plan showed where the house was going to be but he removed it because of the confusion. Ms. Mattis asked if the driveway was going to be paved. Mr. Dzurko said he would like to pave the driveway.

Planner Fegley said she still had a question not addressed from her June 27, 2018 letter. She wanted testimony provided regarding when the front site would be hooked up to municipal sewer because currently, it has public water but is on a septic system. She would like to know what standard is being used. If it clearly on water and sewer it would be Table II. Since it is not, and it is not known when it would be, she wanted to know what table would be used. There are two different pieces; there is the existing house that needs to be hooked up to sewer and then there is the garage that won't need anything. Chairman Zekas said he was looking at

the tables and was not sure what the differences were. Planner Fegley said the area of the lots is the biggest factor. If there is septic, there are larger lot requirements.

Solicitor Frank said Mr. Gillespie indicated the applicant said the smaller lot with the existing dwelling would be connected to public sewer at the time of issuance of the Certificate of Occupancy for the garage. It is just a question of where the Board wishes to draw the line, because it could be required at any phase. He thinks having a certain time is important. Planner Fegley said she believed the Engineer's letter requested testimony regarding this. Mr. Dzurko said it would be done before he begins using the garage. Mr. Gillespie said the applicant still has to go to closing on the property. Should the Board grant approval this evening, the resolution would be adopted in August. He can't do anything until he closes on the property. Solicitor Frank asked if he would be perfecting the subdivision after he acquires the property. He said from a legal perspective, Planner Fegley made a valid point. In order for the Board to be able to say the smaller lot is a conforming lot, the condition needs to be met at the time the subdivision is stamped. There was discussion regarding the time line for the project. Mr. Gillespie said the closing should be in October. Mr. Dzurko said he plans to get started right away after closing. Solicitor Frank said it is up to the Board where they would like to draw the line. He said from a legalistic perspective having the connection in hand when the deed is signed off on would show the right standard was being followed. Having it as a condition subsequent to the approval means the township would lose whatever control it would have over the subdivision process once the deed is signed. There would be some control with the zoning approvals on the building. If it could be done practically by the applicant. Chairman Zekas asked what would be a reasonable trigger. Would it be to submit permits for the sewer by a certain time? Solicitor Frank said that would be acceptable. Mr. Gillespie asked how long the permitting for the sewer would take. Chairman Zekas thought having a certain amount of time to apply would be a good trigger. The CO would be issued once all the connections were made.

Engineer Dougherty said there are conditions under the subdivision dealing with sidewalks required along the frontage of the property. He noted there are no sidewalks proposed but in previous applications they were required. Mr. Gillespie said there was an earlier application for Potts Mill Road that did not require sidewalks. Since there are no sidewalks planned for that road, a contribution was not required either. Engineer Dougherty said a waiver would be required from the Board for sidewalks.

Engineer Dougherty stated that stormwater is an interesting predicament in this case because with just the garage it is not major development and does not fall under that category. As a minor subdivision the Board could go either way. Once the home is built it would be a major development because it will exceed the threshold for requiring stormwater management. He suggested that since ultimately the goal is to build the house that the additional impervious coverage be counted with this current application so that it is cumulative and the applicant would have to comply with the stormwater ordinance. Mr. Gillespie said the applicant will have to come back for further approvals for the house because it will be built behind the garage. The view is at the back of the property. Engineer Dougherty said he would like to see it as a condition now because if the house is built three years down the road and this resolution is silent on it the subsequent resolution would not include it.

Engineer Dougherty said the ordinance would require trees along the right-of-way. He believes in the previous application there was a request for trees and he thought the applicant had agreed to place trees. Planner Fegley stated this will be a bit difficult because there are wires and interference. She will work with the applicant; it depends on what is out there.

Engineer Dougherty said any future development would have to take into account the flood plain elevation as calculated. He believes there is a state database that is being used for the calculations. The house would be closer to the stream and he would like to see the calculations to verify the elevation. It is for the applicant's safety to stay above and outside of the flood plain. That would be a condition of the future development and should be a condition of the resolution also.

Member Buddenbaum said he thought in the past applicants who were building in areas that did not have sidewalks were able to make contributions in lieu of installing sidewalks. Solicitor Frank said there was a law case about a year ago and it was decided that it was no longer permissible for a municipality to take funds from developers and put them into a general sidewalk fund. He thinks it may be permissible for a town to receive the funds when there is a specific plan for sidewalks for a specific neighborhood. They can have a developer contribute and build all of the sidewalks together so there aren't sidewalks going to nowhere. The township can coordinate the project. What was objectionable was that it was just dumped into a general sidewalk fund and not for a specific area.

Mr. Gillespie asked the Board to review a resolution that was approved by the Planning Board in March of this year. He distributed copies. Solicitor Frank said since it was a Planning Board Resolution it did not need to be entered as an exhibit. It was Resolution PB 2018-09. Mr. Gillespie said it deals with 1011 Potts Mill Road. It was subdivided into two lots. He referred to the Conclusions of Law section. He quoted from the second paragraph, "The Board further finds that the requested design exception to allow omission of sidewalks from the frontage of the subject property should be granted because requiring such sidewalks would result in a 'sidewalk to nowhere' since there are no sidewalks on nearby properties. A contribution in lieu of construction should not be imposed because the Township does not have a plan for sidewalk construction in that area of Potts Mill Road in the reasonably foreseeable future such that there would exist a nexus between payment in lieu of imposition, the impacts of the currently proposed development and actual construction of such sidewalks with the collected funds." He said he would like to respectfully suggest that the same finding should be found here. There are no plans to install sidewalks. Solicitor Frank said there has long been a practice of towns taking payments in lieu of. There is authority in the Municipal Land Use Law for off-tract improvements for developers to pay their share. Many developers did not want to presently build sidewalks and it was easier and more convenient for them to make the payments. A developer objected to the practice and the courts put a stop to it. If there is a nexus between the proposed development and the sidewalk and it doesn't need to be done at that exact site or that exact side it a payment should be made.

Mr. Gillespie referred again to the resolution. He quoted, "Whereas, the proposed lots conform to all applicable bulk standards except the proposed 60 ft. lot width of proposed Lot 18.04 is less than the required 125 ft." He said Mr. Dzurko is proposing a lot width of 71 ft. He then quoted from the resolution, "The narrow frontage for proposed Lot 18.04 accommodates the location of the existing dwelling and garage on proposed Lot 18.03. If

wider frontage were provided for proposed Lot 18.04, the existing garage would have to be demolished or the side yard setbacks for the garage reduced below required minimums.” He said although the applicant does not have a garage on the proposed lot, the same analysis would apply here. The applicant would have to encroach further into the side yard of the house in order to make it 60 ft. wider. He would like to suggest the same thing here. It could be wider but then it would encroach upon the existing house and it would no longer meet the acre minimum. The narrowness of the lot is what gives rise to the need for the variance.

He now referred to a resolution from 2010 concerning 1032 Potts Mill Road. This was a waiver of site plan and a use variance. The applicant wanted to construct a 40’ x 80’ pole barn for a landscaping business. The application was approved and it was very similar to this situation. It is a similar size as to what is being requested. There was a pre-existing business that had not been approved. That garage was for commercial purposes. The proposed garage is for purely personal use. The resolutions are not precedential but they do provide guidance for the board in how previous applications were treated. The setting is still in the country and there are odd shaped lots in that area. What the applicant is proposing is not inconsistent with what is in the Potts Mill Road area.

Solicitor Frank said he wanted to mention the use of resolutions during a hearing. Land Development Board decisions are never precedential. They are not binding on the Board in any way. Mr. Gillespie is offering them to show the Board what is there and what has been done in other circumstances; not with a view to tell the Board it must be done the same way. It is simply telling the Board what else is in the neighborhood. It is informational as opposed to binding. Mr. Gillespie said it is good information regarding development of the properties in that area. It shows how they came to be that way. He again referred to the resolution from 2010. He read that the relatively large size of the pole barn and the odd shape of the lot provide an opportunity to provide ample separation, buffers and screening from the adjoining uses, further enhancing the property’s peculiar suitability as well as addressing some aspects of the proposed use on the public good. He said Mr. Dzurko is saying the same thing in regard to the size of the lot and the shape of the lot and the fact that the applicant thought this is what he wanted to do when he retires. He would like to build the garage, store his “toys” there and then build a house. Mr. Gillespie said it is peculiarly suited for this particular proposed use. He would like the Board to consider the same arguments that prevailed in 2010.

Mr. Gillespie said on the corner of Bustleton and Old York Roads there is a 3.8-acre lot has a large pole barn used for storage of vehicles for a landscaping business. That was also approved by the township’s Zoning Board. There is a history of recognizing that area of the town is appropriate for what is being proposed. This application isn’t even a request for a use variance; the garage will be for personal use. He will not be running a business from it. The timing presents itself in a way that the applicant needs to build a garage and then will start building the house when he is ready to retire.

Mr. Malinowski said the applicant provided him with a drawing of the structure that received approval for the commercial use. He used it as a base for the proposed structure; there were certain items that did not apply. It is a typical pole barn. There are metal panels and metal roofing. The height would be 24 ft. That is guided by the fact that for the motor home the garage door opening has to be 14 ft. That puts the interior of the garage at 16 ft. and then

there is the slope of the building itself. That all dictated the height of the building. It will be built on a slab with a concrete foundation. The utilities would just be the electric. The elevation presented shows three garage door bays. That is just a possibility; it will most likely be two. Member Puccio asked if the electric would be run underground or above. Mr. Dzurko said it would be done by whatever is more feasible. He believes it will run overhead for a span and then be run underground. He plans to continue it underground to the house when it is built. Engineer Dougherty said there is a provision in the subdivision ordinance that all utilities would be underground. That would be a condition of the resolution. Member Buddenbaum asked about the lighting outside of the garage. Mr. Dzurko said he plans to have a light over the main door on the left side of the garage. It will be motion-sensored.

At 8:55pm Chairman Zekas called for a short recess. At 9:08pm he called the meeting back to order.

Mr. Gillespie said unless the Board or professionals had any more questions, he would like to hear any comments from the public. Chairman Zekas said he believed Planner Fegley still had some questions. Planner Fegley referred to her letter of March 27, 2018. The ordinance explains there can only be one principal building on a lot. Once the house is constructed it will raise many questions. The house would become the principal use and the garage would become an accessory building. The ordinance also says if a garage is considered accessory after the house is constructed, the requirement for the accessory building is that it can be no closer to the front property line than the rear building line of the principal building and no closer to any side or rear property line than the height. The application would not meet the front property line requirements.

She said it is also stated that accessory buildings must be compatible in appearance with the area in which it is located. The applicant was asked for architectural renderings that depict the style, materials and color for the garage. That was not provided until this evening. The ordinance also stated that the construction of the principal building must proceed or coincide with the construction of the accessory building. This is what concerns her. She feels the purpose of that requirement is to ensure that if a house and a garage are going to be constructed, the house is constructed first so the Township isn't left with a garage on a lot without a house. She doesn't know how that will be addressed.

She asked Mr. Malinowski about some coverages and setbacks that were not provided or correct. She was referring to lot coverage. Mr. Malinowski said on the plan he only noted building coverage. He then looked at lot coverage as it pertained to the subdivision. For proposed Lot 12.04, which will have the existing dwelling, the coverage was 11.1% where 20% is permissible. For proposed Lot 12.03 the coverage, with the garage and the paved driveway, will be 4.5%.

Planner Fegley asked if there were steep slopes or any other environmentally sensitive areas that needed to be discussed. Mr. Malinowski said there were not. Planner Fegley said the landscape buffer requirement would be contingent upon the intensity of the use of the garage. The resolution from 2010 did require an ample buffer and screening. She said on an adjacent property there are some sheds and structures near the location of the proposed garage. She asked what impact the garage would have on those existing structures. She was told they are

just sheds for storage of personal belongings and equipment. Planner Fegley said she recommended if the use variance was granted it be conditioned upon a site plan approval.

She asked about positive and negative criteria and asked if anyone had any testimony. Mr. Gillespie said Mr. Dzurko testified that if this were approved it would be consistent with what is in that area. The idea of a house and a garage would not have a negative impact on the neighborhood. The applicant is asking for a house and a garage and the house is being deferred. He said the testimony has shown that a waiver of a site plan would be appropriate. It is not a business with employees coming and going with lots of commercial equipment being stored. There isn't any dust or noise associated with it. The garage will house personal items and when Mr. Dzurko retires he would like to build a house there and remain in Florence Township.

Member Buddenbaum asked if there was any timeline for when the house would be built. Mr. Gillespie said he wished he could provide that but there is no way to tell. Solicitor Frank said what if the Board granted an approval and said the house had to be built within five years of receiving the CO for the garage. Then the time expires and the garage is there. What could be enforced? The applicant would mostly come back and seek a hardship variance asking for relief from what was required. He doesn't know if a hard and fast deadline would bear fruit for enforcement. He feels it would be problematic. The Board understands what the objectives are, but it is possible that the house would never be built. Mr. Gillespie is correct, there is a lot there presently, and the garage could be built on that lot. As long as they conformed to the maximum height, which is somewhat less than what is proposed, they could build without any approvals from any boards. The only intervening thing is the creation of that building on a separate lot. What happens in five years if for some reason this house is not built?

Planner Fegley said an earlier version of the application showed a house and the most recent one does not. This application is only for the garage. Mr. Gillespie said the house was taken off the drawing to show the distance between the garage and the flood hazard line and the wetlands line. There was testimony on the record of what Mr. Dzurko plans to do.

Mr. Gillespie said five years is not an unusual time frame to consider. If Mr. Dzurko has not started the construction in that time, either the subdivision line disappears and it becomes a house and a garage, or he comes back to the Board to explain why he would like an extension. Perhaps that would address the concern about the house not being built. He suggested it be a condition of the approval. Solicitor Frank said he likes the solution, but what happens if the other lot is sold to a stranger? There was discussion regarding what would happen if the line was removed. The garage would be too tall for the lot.

Mr. Gillespie said Mr. Dzurko could have built the garage and told everyone it was for the woman who rents the house on the lot and used it for his personal use. He wanted to be honest and decided to do everything the right way. It is a legitimate use of the property and it is still residential. It would have been easier to not be honest.

It was the Motion of Buddenbaum, seconded by Lutz to open the meeting to the public regarding Application ZB#2018-01. Motion unanimously approved by all those present.

Salvatore Ungarini, 1023 Potts Mill Road, said he lives in the property right next to the lot in question. The sheds that were referred to are his. If anyone would be inconvenienced, it would be him and his wife. He has lived there for twenty years and the town has been good to them. He has a beautiful view. He is all in favor of the pole barn and the house. He sees it as an improvement to the property. Chairman Zekas asked if he felt there should be some landscaping or buffering between his property and the one in question. Mr. Ungarini said he didn't think it would be necessary, he prefers the openness.

Mayor Wilkie said he would like to present a point of clarification. The issue of sidewalks came up at the Planning Board. Right now, the town is getting grants to do work on Potts Mill Road. There will be sidewalks installed also; however, there is a problem with trying to get past the bridge. There is a plan being developed but there is no need to require the payments for the sidewalks. There was an applicant that did a subdivision and a large garage was approved. Now the owner has all his vehicles sitting outside of it and it does not look attractive. He didn't know if there was anything the Board could do legally to put some kind of restriction to prevent this. Solicitor Frank asked if the applicant would be amenable to a condition that stated there would be no parking or storage of things forward of the rear line of the proposed garage. Mr. Gillespie said he believes that would be fine as long as it would not be a problem if something was out there for a couple days because it was being worked on. Solicitor Frank said if it would be outside of the designated driveway it could be a violation. The applicant agreed.

It was the Motion of Lutz, seconded by Buddenbaum to close the public hearing. Motion unanimously approved by all those present.

Solicitor Frank said he needed to enter the exhibits that were used into the record. Exhibit A-1 is an aerial view of the subject and surrounding properties with lot lines, flood hazard line and wetlands line. It also showed the proposed garage and driveway. Exhibit A-2 is the architectural drawing. It is one sheet with plan and elevation views.

Solicitor Frank confirmed that the applicant will only use the garage for personal use. He asked if the applicant would agree to saying there could be no rental storage use. Mr. Gillespie said he would agree to that. A Board member asked if there would be vehicle maintenance performed in the garage. Mr. Dzurko said he might do minor work like oil changes or washing vehicles.

Chairman Zekas asked what process would work if the application is approved, the house is built and the garage becomes the accessory use. Solicitor Frank said the garage would be there at that point. Chairman Zekas noted this was the first time an application for a house and garage were done in reverse order.

Solicitor Frank said over the course of this meeting there were many possible conditions discussed. He thought it would be useful to review them. First, there could be no commercial use. There could be no rental or storage to third parties. The applicant will have to return to the Zoning Board at the time of construction of the proposed house for a variance for the accessory structure being in front of the principal use. At that time if any other approvals from other agencies are needed they would be taken care of. The applicant will show the proposed sewer lines on a revised plan, and that would be for both lots. The Board will allow

subgrade plumbing to be installed at the time of initial construction. It may not be connected to stormwater until such time as a home is constructed on the flag lot and connected to public water and sewer. The applicant will make application to the Water & Sewer Department within thirty days of closing and the hook ups must be completed prior to the issuance of a CO for the garage. A waiver of sidewalks on the front of the property would be approved. The calculations for impervious coverage will cumulate from this application at the time the proposed home is built, which is another reason to require coming back to the Board. The applicant will work administratively with the Board Planner to place street trees at the frontage of both lots. The colors of the proposed garage will be muted consistent with the rural area. If the house on the flag lot is not built within five years, the subdivision is erased and it reverts to being a single lot. There will be no parking or storage of vehicles, machinery or materials outside of the driveway forward of the rear line of the garage building. Once the house has been constructed it shall become the principal use on the lot. He said all of the usual conditions also apply.

Planner Fegley asked what the five years was within? Solicitor Frank said it would be within five years of this approval. Planner Fegley said the applicant also asked for an EIS waiver. Solicitor Frank noted it would be a submission waiver.

Chairman Zekas said he thought everyone was in agreement with what was discussed. Member Lutz said he believed the testimony was adequate for the EIS waiver because the garage is 300 ft. from the areas in question.

Mr. Gillespie said he would like a waiver for the site plan. He would also like the condition for the five-year stipulation include wording about unless it was otherwise extended. That was agreed upon.

Planner Fegley said the applicant testified lighting would be at the main door on the building. Mr. Dzurko said if it was required, it would not be directed outward. It would be a light that shines directly down in front of the building. It would most likely be sensor activated. Engineer Dougherty said the testimony was that there would be no lighting of the driveway, just on the garage itself. Mr. Gillespie asked if it would be acceptable if further down the road the applicant could put small solar lights along the driveway. Chairman Zekas said that kind of lighting would be acceptable. Planner Fegley said the objection would be to pole mounted, high glaring lights. Engineer Dougherty said another condition is that the utilities would be run underground from the pole near the street.

Chairman Zekas asked about the site plan. Mr. Gillespie said the applicant is requesting a waiver for the site plan. Chairman Zekas asked if any Board members had concerns about that request. Engineer Dougherty said given what was shown of the garage, it does show grading and indicated some slopes on the driveway. It fulfills the need for a site plan at this stage. It is a subdivision plan and not a true site plan. There is adequate information provided, from an engineering standpoint, to fulfill the requirements. Solicitor Frank said that would need to be supplemented with the utility locations. Engineer Dougherty said that was correct, and ultimately when the house is built there would be a grading plan.

Chairman Zekas said basically the applicant's request is for a minor subdivision and use variance to construct a residential accessory garage as a principal use, prior to construction of

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the proposed house. Solicitor Frank said by having the five-year condition the Board is just talking about a temporal variance. It is no longer being talked about as genuinely being a stand-alone principal use. He said that reduces the extent of the variance that is being discussed. It makes a 'when' as opposed to a 'what'. There is also a variance for the frontage.

It was the Motion of Lutz, seconded by Mattis to approve the application with all of the listed conditions.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Drangula, Lutz, Zekas, Mattis, Puccio

NOES: None

ABSENT: Cartier, Patel, Sovak

MINUTES

It was the Motion of Lutz, seconded by Buddenbaum to approve the minutes of the Regular Meeting May 7, 2018. Motion unanimously approved by all those present.

OTHER BUSINESS

A. 2019 Meeting Schedule for Approval

The Board discussed the July meeting date. The option was on July 1st or July 8th. The Board said it would like to have the meeting before the July 4th holiday. All were in agreement with the 2019 meeting schedule including the July 1st date.

PUBLIC COMMENT

No members of the public were present.

ADJOURNMENT

Motion of Buddenbaum, seconded by Lutz to adjourn the meeting at 10:03 p.m. Motion unanimously approved by all those present.

Larry Lutz, Secretary

/ak